IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15190 of 2004

Between:
Sanapala Ramanujulu, @ Ramanujacharyulu,
S/o. Late Madhavaswamy, Hindu, Archaka, R/o 39-16-35,
Madhavadhara, Visakhapatnam - 7.

..... PETITIONER

AND

1 The Commissioner, Municipal Corporation of Visakhapatnam,
Visakhapatnam.
2 Sanapala Sridharudu, S/o. Late Varaha Lakshmi
Narasimham, Hindu, Retired Railway Employee,
R/o. at D.No. 39-17-7/1, Madhavadhra, Visakhapatnam.
3 Bhagavathi Vara Prasada Rao, S/o. Late Penaganti Ramulu,
Hindu, Real Estate Broker, aged 34, D.No. 33-1-15,
Allipuram Jail Road, C/o. Amma Automobiles, Visakhapatnam.
4 Penaganti Sanyasinaidu, S/o. Appanna, Hindu,
R/o. at Door No. 25-8-270/1, Main Road, Reading Room,
Visakhapatnam.
5 Sanapala Srinivasam, S/o. Suryanarayana, Hindu,
Door No. 39-14-16, Madhaadhara, Visakhapatnam.
6 Sanapala Jhansilakshmi, W/o. Sanapala Srinivasam, Hindu,
D.No.39-14-16, Madhavadhara, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more especially one in the nature of writ of Mandamus directing the 1st respondent to dispose of the representation through legal notice issued by the Petitioner on 2-4-2004 until then, direct the respondents 2 to 6 not to make any constructions in Sy.No. 41, Madhavadhara Village, Visakhapatnam Municipal Corporation limits of an extent of 1400 Sq. yards.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondent No.1.: MR.T.S.VENKATARAMANA

Counsel for the Respondent Nos.2 to 6:None

The Court at the stage of admission made the following ORDER:

Petitioner, who was unsuccessful in obtaining temporary injunction in I.A.No.230 of 2003 in O.S.No.898 of 2003 on the file of the II Additional Junior Civil Judge, Visakhapatnam, against respondents 2 to 6, made a representation to the first respondent on 02.04.2004 challenging the illegal construction made by respondents 2 to 6 in his land in an extent of
1400 Sq. Yards in Survey No.41 of Madhavadhara, Visakhapatnam. Aggrieved by the inaction on the part of the first respondent, the petitioner filed this writ petition.

Admittedly, the petitioner has preferred an appeal in C.M.A.No. 58 of 2003 against the dismissal of the I.A., and the same has been pending disposal.

In a judgment reported in ***MOHAN PANDEY AND ANOTHER v. SMT. USHA RANI RAJ GARIA AND OTHERS*****,** the Hon'ble Supreme Court held that:

> *"It has repeatedly been held by this Court as also by various High Courts that a regular suit is the appropriate remedy for settlement of disputes relating to property rights between private persons and that the remedy under Article 226 of the Constitution shall not be available except where violation of some statutory duty on the part of a statutory authority is alleged."*

> *"The High Court cannot allow the constitutional jurisdiction to be used for deciding disputes, for which remedies, under the general law, civil or criminal, are available. It is not intended to replace the ordinary remedies by way of a suit or application available to a litigant. The jurisdiction is special and extraordinary and should not be exercised casually or lightly."*

In view of the above-referred decision, the present writ petition filed by the petitioner is nothing but an abuse of process and cannot be entertained. Hence, the writ petition is, dismissed. No costs.

A.Gopal Reddy, J

Date: 26.08.2004

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To

1 The Commissioner, Municipal Corporation of Visakhapatnam, Visakhapatnam.

2. Two CD Copies